Chapter 11 Overview

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Chapter 11 bankruptcy is a form of bankruptcy reorganization available to individuals, corporations and partnerships. It has no limits on the amount of debt, as Chapter 13 does. It is the usual choice for large businesses seeking to restructure their debt.

Individuals usually file Chapter 7 or Chapter 13 rather than Chapter 11.

The debtor usually remains in possession of its assets, and operates the business under the supervision of the court and for the benefit of creditors. The debtor in possession is a fiduciary for the creditors. If the debtor's management is ineffective or less than honest, a trustee may be appointed.

A creditors committee is usually appointed by the U.S.Trustee from among the 20 largest, unsecured creditors who are not insiders. The committee represents all of the creditors in providing oversight for the debtor's operations and a body with whom the debtor can negotiate an acceptable plan of reorganization.

A Chapter 11 plan is confirmed only upon the affirmative votes of the creditors, who are divided by the plan into classes based on the characteristics of their claims, and whose votes are a function of the

amount of their claim against the debtor.

If the debtor can't get the votes to confirm a plan, the debtor can attempt to "cram down" a plan on creditors and get the plan confirmed despite creditor opposition, by meeting certain statutory tests.

Chapter 11 is probably the most flexible of all the chapters, and as such, it is the hardest to generalize about. Its flexibility makes it generally more expensive to the debtor. The rate of successful Chapter 11 reorganizations is depressingly low, sometimes estimated at 10% or less.

Individuals usually reorganize under Chapter 13, which offers a streamlined plan at modest cost that allows the individual to keep possession of his assets, catch up on secured debt, and discharge unsecured debt at the end of the plan.